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Approved: 

MICHAEL D. LONGYEAR

Assistant United States Attorney

Before: THE HONORABLE SARAH NETBURN  
United States Magistrate Judge  
Southern District of New York

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UNITED STATES OF AMERICA

: **COMPLAINT**

- v. -

: Violations of  
21 U.S.C. 846; 18 U.S.C.  
§§ 924(c) and 2

JOSHUA TORRES and  
ABDOULAYE DIALLO,

: COUNTY OF OFFENSE:  
BRONX

Defendants.

:

- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

SEAN DESTEFANO, being duly sworn, deposes and says that he is a Detective with the New York City Police Department, and charges as follows:

**COUNT ONE**

(Narcotics Trafficking)

1. On or about January 8, 2019, in the Southern District of New York and elsewhere, JOSHUA TORRES and ABDOULAYE DIALLO, the defendants, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that JOSHUA TORRES and ABDOULAYE DIALLO, the defendants, and others known and unknown, would and did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

3. The controlled substance that JOSHUA TORRES and ABDOULAYE DIALLO, the defendants, conspired to distribute and possess with the intent to distribute are mixtures and

substances containing a detectable amount of marijuana, in violation of Title 21, United States Code, Section 841(b)(1)(D).

(Title 21, United States Code, Section 846.)

**COUNT TWO**

(Use of a Firearm)

4. On or about January 8, 2019, in the Southern District of New York and elsewhere, JOSHUA TORRES and ABDOULAYE DIALLO, the defendants, and others known and unknown, during and in relation to a drug trafficking crime for which they may be prosecuted in a court of the United States, namely, the narcotics distribution conspiracy charged in Count One of this Complaint, knowingly did use and carry a firearm, and, in furtherance of such crime, did possess a firearm, and did aid and abet the use, carrying, and possession of a firearm, which was brandished and discharged.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), (ii), (iii), and 2.)

The bases for my knowledge and for the foregoing charges, are, in part, as follows:

5. I am a Detective with the New York City Police Department ("NYPD"). I have been personally involved in the investigation of this matter. This Affidavit is based upon my personal participation in the investigation, my examination of reports and records, my review of surveillance video, and my conversations with other law enforcement personnel and other individuals. Because this Affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

6. As set forth in greater detail below, on or about January 8, 2019, JOSHUA TORRES and ABDOULAYE DIALLO, the defendants, were selling marijuana in a deli located at the corner of East 167th Street and 3rd Avenue in the Bronx. See *infra* ¶¶ 7(a)-(c). At one point, TORRES and DIALLO stepped outside the deli and got into what appeared to be a verbal altercation with other individuals. See *infra* ¶¶ 7(d)-(e). DIALLO removed what appears to be a firearm from the inside of

his jacket and pulled back the slide of the firearm. See *infra* ¶¶ 7(f). TORRES then took the firearm from DIALLO and began chasing one of the individuals. The surveillance video appears to show TORRES shooting the firearm and a flash from the firearm's muzzle can be seen. See *infra* ¶¶ 7(g). One spent shell casing was recovered from the area where it appeared TORRES discharged the firearm. See *infra* ¶¶ 8(b). The victim was struck in the leg. See *infra* ¶¶ 8(c).

7. Based on my conversations with other law enforcement officers, my review of law enforcement reports, my review of surveillance video, and my personal participation in this investigation, I learned the following in substance and in part:

a. On or about January 8, 2019, surveillance video (the "Surveillance Video") from a deli located at East 167th Street and 3rd Avenue in the Bronx, New York (the "Deli") shows two individuals inside the Deli. One individual was wearing a black jacket, blue bandana, and was carrying a blue backpack. Based on my comparison of photographs in law enforcement databases to the individual wearing the black jacket and blue bandana, the individual appears to be ABDOULAYE DIALLO, the defendant. The other individual was wearing what appeared to be a red track suit and a neon green vest. Based on my comparison of photographs in law enforcement databases to the individual wearing the red track suit and neon green vest, the individual appears to be JOSHUA TORRES, the defendant.

b. The Surveillance Video shows, in substance and in part, that DIALLO's blue backpack contained what appeared to be narcotics and drug paraphernalia. At one point at approximately 12:56 a.m. on the time stamp of the video, TORRES reached into the backpack and removed what appeared to be an electronic scale. TORRES can be seen weighing something on the scale and putting the substance into what appears to be a bag or piece of foil.

c. The Surveillance Video shows that at approximately 12:53 a.m. on the time stamp of the video, TORRES engaged in what appear to be a hand to hand sale of narcotics with customers inside the Deli.

d. At one point - at approximately 1:10 a.m. on the time stamp of the Surveillance Video - DIALLO appears to hand the blue backpack to an employee of the Deli.

e. The Surveillance Video shows that at approximately 1:30 a.m., four individuals - two females and two males confronted TORRES and DIALLO outside the Deli. The surveillance video shows what appears to be a verbal altercation between TORRES and DIALLO on one side, and the other four individuals on the other side.

f. The Surveillance Video shows that at approximately 1:31 a.m. on the time stamp of the surveillance video, DIALLO removed what appears to be a firearm from the inside of this jacket and then pulled back the slide of the firearm. TORRES then reached for the firearm and took it out of DIALLO's hand. TORRES and one of the individuals then walked away from the camera's vantage point.

g. At approximately 1:33 a.m. on the time stamp of the Surveillance Video, one of the individuals who confronted TORRES and DIALLO ("Victim-1") can be seen re-entering the view of the Deli's surveillance camera and appears to be running from TORRES. The Surveillance Video appears to show TORRES discharging the firearm and the flash from the muzzle can be seen on the video. Afterwards, Victim-1 ran away.

8. Based on my conversations with other NYPD officers as well as my review of law enforcement reports, I have learned the following:

a. The blue backpack that ABDOULAYE DIALLO, the defendant, was carrying in the Deli and handed to a Deli employee was recovered from the Deli. The backpack contained what appeared to be a green leafy substance and several bags. Based on my review of reports and vouchers, the green leafy substance appears to be marijuana. The backpack also contained approximately \$165 in small denominations.

b. One .380 caliber shell casing was found on the street in front of the Deli in the vicinity where JOSHUA TORRES, the defendant, appeared to discharge the firearm.

c. Victim-1 was taken to a hospital and had one gunshot wound to Victim-1's upper thigh.

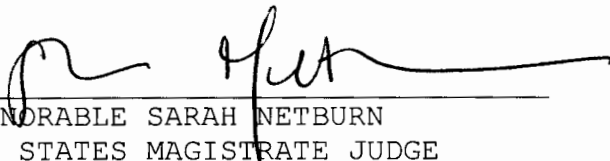
WHEREFORE, the deponent respectfully requests that JOSHUA TORRES and ABDOULAYE DIALLO, the defendants, be imprisoned or bailed, as the case may be.



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SEAN DESTEFANO  
DETECTIVE  
NEW YORK CITY POLICE DEPARTMENT

Sworn to before me this  
17th day of January, 2019



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THE HONORABLE SARAH NETBURN  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK